

Internal Revenue Service, Treasury

§ 1.41-0

One-half of excess of earnings over \$1,200 ...	125	825
Amount determined under section 37(e)(5)	1,050	
Retirement income (limited to W's share of public pension)	700	
Credit of W (15 pct. of \$700)	105	

[T.D. 7743, 45 FR 84050, Dec. 22, 1980]

§ 1.38-1 Investment in certain depreciable property.

Regulations under sections 46 through 50 are prescribed under the authority granted the Secretary by section 38(b) to prescribe regulations as may be necessary to carry out the purposes of section 38 and subpart B, part IV, subchapter A, chapter 1 of the Code.

[44 FR 20417, Apr. 5, 1979]

§ 1.40-1 Questions and answers relating to the meaning of the term "qualified mixture" in section 40(b)(1).

Q-1. What is a "qualified mixture" within the meaning of section 40(b)(1)?

A-1. A "qualified mixture" is a mixture of alcohol and gasoline or of alcohol and special fuel which (1) is sold by the taxpayer producing such mixture to any person for use as a fuel, or (2) is used as a fuel by the taxpayer producing such mixture.

Q-2. Must alcohol be present in a product in order for that product to be considered a mixture of alcohol and either gasoline or a special fuel?

A-2. No. A product is considered to be a mixture of alcohol and gasoline or of alcohol and a special fuel if the product is derived from alcohol and either gasoline or a special fuel even if the alcohol is chemically transformed in producing the product so that the alcohol is no longer present as a separate chemical in the final product, provided that there is no significant loss in the energy content of the alcohol. Thus, a product may be considered to be "mixture of alcohol and gasoline or of alcohol and a special fuel" within the meaning of section 40(b)(1)(B) if such product is produced in a chemical reaction between alcohol and either gasoline or a special fuel. Similarly a product may be considered to be a "mixture of alcohol and gasoline or of alcohol

and a special fuel" if such product is produced by blending a chemical compound derived from alcohol with either gasoline or a special fuel.

Thus, for example, a blend of gasoline and ethyl tertiary butyl ether (ETBE), a compound derived from ethanol (a qualified alcohol), in a chemical reaction in which there is no significant loss in the energy content of the ethanol, is considered for purposes of section 40(b)(1)(B) to be a mixture of gasoline and the ethanol used to produce the ETBE, even though the ethanol is chemically transformed in the production of ETBE and is not present in the final product.

[T.D. 8291, 55 FR 8948, Mar. 9, 1990]

§ 1.41-0 Table of contents.

This section lists the table of contents for §§ 1.41-1 through 1.41-9.

§ 1.41-1 Credit for increasing research activities.

- (a) Amount of credit.
- (b) Introduction to regulations under section 41.

§ 1.41-2 Qualified research expenses.

- (a) Trade or business requirement.
 - (1) In general.
 - (2) New business.
 - (3) Research performed for others.
 - (i) Taxpayer not entitled to results.
 - (ii) Taxpayer entitled to results.
 - (4) Partnerships.
 - (i) In general.
 - (ii) Special rule for certain partnerships and joint ventures.
 - (b) Supplies and personal property used in the conduct of qualified research.
 - (1) In general.
 - (2) Certain utility charges.
 - (i) In general.
 - (ii) Extraordinary expenditures.
 - (3) Right to use personal property.
 - (4) Use of personal property in taxable years beginning after December 31, 1985.
 - (c) Qualified services.
 - (1) Engaging in qualified research.
 - (2) Direct supervision.
 - (3) Direct support.
 - (4) Wages paid for qualified services.
 - (1) In general.
 - (2) "Substantially all."
 - (e) Contract research expenses.
 - (1) In general.
 - (2) Performance of qualified research.
 - (3) "On behalf of."
 - (4) Prepaid amounts.
 - (5) Examples.

§ 1.41-0

§ 1.41-3 Base amount for taxable years beginning on or after January 3, 2001.

- (a) New taxpayers.
- (b) Special rules for short taxable years.
 - (1) Short credit year.
 - (2) Short taxable year preceding credit year.
 - (3) Short taxable year in determining fixed-base percentage.
- (c) Definition of gross receipts.
 - (1) In general.
 - (2) Amounts excluded.
 - (3) Foreign corporations.
 - (d) Consistency requirement.
 - (1) In general.
 - (2) Illustrations.
 - (e) Effective date.

§ 1.41-4 Qualified research for expenditures paid or incurred in taxable years ending on or after December 31, 2003.

- (a) Qualified research.
 - (1) General rule.
 - (2) Requirements of section 41(d)(1).
 - (3) Undertaken for the purpose of discovering information.
 - (i) In general.
 - (ii) Application of the discovering information requirement.
 - (iii) Patent safe harbor.
 - (4) Technological in nature.
 - (5) Process of experimentation.
 - (i) In general.
 - (ii) Qualified purpose.
 - (6) Substantially all requirement.
 - (7) Use of computers and information technology.
 - (8) Illustrations.
 - (b) Application of requirements for qualified research.
 - (1) In general.
 - (2) Shrinking-back rule.
 - (3) Illustration.
 - (c) Excluded activities.
 - (1) In general.
 - (2) Research after commercial production.
 - (i) In general.
 - (ii) Certain additional activities related to the business component.
 - (iii) Activities related to production process or technique.
 - (iv) Clinical testing.
 - (3) Adaptation of existing business component.
 - (4) Duplication of existing business component.
 - (5) Surveys, studies, research relating to management functions, etc.
 - (6) Internal use software for taxable years beginning on or after December 31, 1985. [Reserved].
 - (7) Activities outside the United States, Puerto Rico, and other possessions.
 - (i) In general.
 - (ii) Apportionment of in-house research expenses.

26 CFR Ch. I (4-1-16 Edition)

(iii) Apportionment of contract research expenses.

- (8) Research in the social sciences, etc.
- (9) Research funded by any grant, contract, or otherwise.
- (10) Illustrations.
- (d) Recordkeeping for the research credit.
- (e) Effective dates.

§ 1.41-5 Basic research for taxable years beginning after December 31, 1986. [Reserved]

§ 1.41-6 Aggregation of expenditures.

- (a) Controlled groups of corporations; trades or businesses under common control.
 - (1) In general.
 - (2) Consolidated groups.
 - (3) Definitions.
 - (b) Computation of the group credit.
 - (1) In general.
 - (2) Start-up companies.
 - (c) Allocation of the group credit.
 - (d) Special rules for consolidated groups.
 - (1) In general.
 - (2) Start-up company status.
 - (3) Special rule for allocation of group credit among consolidated group members.
 - (e) Examples.
 - (f) For taxable years beginning before January 1, 1990.
 - (g) Tax accounting periods used.
 - (1) In general.
 - (2) Special rule when timing of research is manipulated.
 - (h) Membership during taxable year in more than one group.
 - (i) Intra-group transactions.
 - (1) In general.
 - (2) In-house research expenses.
 - (3) Contract research expenses.
 - (4) Lease payments.
 - (5) Payment for supplies.
 - (j) Effective/applicability dates.
 - (1) In general.
 - (2) Consolidated group rule.
 - (3) Taxable years ending after June 9, 2011.
 - (4) Taxable years beginning after December 31, 2011.
 - (5) Taxable years ending before January 1, 2012.

§ 1.41-7 Special rules.

- (a) Allocations.
 - (1) Corporation making an election under subchapter S.
 - (i) Pass-through, for taxable years beginning after December 31, 1982, in the case of an S corporation.
 - (ii) Pass-through, for taxable years beginning before January 1, 1983, in the case of a subchapter S corporation.
 - (2) Pass-through in the case of an estate or trust.
 - (3) Pass-through in the case of a partnership.
 - (i) In general.
 - (ii) Certain expenditures by joint ventures.

Internal Revenue Service, Treasury

§ 1.41-2

- (4) Year in which taken into account.
- (5) Credit allowed subject to limitation.
- (b) Adjustments for certain acquisitions and dispositions—Meaning of terms.
- (c) Special rule for pass-through of credit.
- (d) Carryback and carryover of unused credits.

§ 1.41-8 Alternative incremental credit applicable for taxable years beginning on or before December 31, 2008.

- (a) Determination of credit.
- (b) Election.
 - (1) In general.
 - (2) Time and manner of election.
 - (3) Revocation.
 - (4) Special rules for controlled groups.
 - (i) In general.
 - (ii) Designated member.
 - (5) Effective/applicability dates.

§ 1.41-9 Alternative simplified credit.

- (a) Determination of credit.
- (b) Election.
 - (1) In general.
 - (2) Time and manner of election.
 - (3) Revocation.
 - (4) Special rules for controlled groups.
 - (i) In general.
 - (ii) Designated member.
 - (c) Special rules.
 - (1) Qualified research expenditures (QREs) required in all years.
 - (2) Section 41(c)(6) applicability.
 - (3) Short taxable years.
 - (i) General rule.
 - (ii) Limited exception.
 - (4) Controlled groups.
 - (d) Effective/applicability dates.

[T.D. 8930, 65 FR 287, Jan. 3, 2001, as amended by T.D. 9104, 69 FR 26, Jan. 2, 2004; T.D. 9205, 70 FR 29601, May 24, 2005; T.D. 9296, 71 FR 65725, Nov. 9, 2006; T.D. 9401, 73 FR 34187, June 17, 2008; T.D. 9528, 76 FR 33995, June 10, 2011; 80 FR 18098, Apr. 3, 2015]

§ 1.41-1 Credit for increasing research activities.

(a) *Amount of credit.* The amount of a taxpayer's credit is determined under section 41(a). For taxable years beginning after June 30, 1996, and at the election of the taxpayer, the portion of the credit determined under section 41(a)(1) may be calculated using the alternative incremental credit set forth in section 41(c)(4). For taxable years ending after December 31, 2006, and at the election of the taxpayer, the portion of the credit determined under section 41(a)(1) may be calculated using either the alternative incremental credit set forth in section 41(c)(4), or

the alternative simplified credit set forth in section 41(c)(5).

(b) *Introduction to regulations under section 41.* (1) Sections 1.41-2 through 1.41-8 and 1.41-3A through 1.41-5A address only certain provisions of section 41. The following table identifies the provisions of section 41 that are addressed, and lists each provision with the section of the regulations in which it is covered.

Section of the regulation	Section of the Internal Revenue Code
§ 1.41-2	41(b).
§ 1.41-3	41(c).
§ 1.41-4	41(d).
§ 1.41-5	41(e).
§ 1.41-6	41(f).
§ 1.41-7	41(f).
	41(g).
§ 1.41-8	41(c).
§ 1.41-3A	41(c) (taxable years beginning before January 1, 1990).
§ 1.41-4A	41(d) (taxable years beginning before January 1, 1986).
§ 1.41-5A	41(e) (taxable years beginning before January 1, 1987).

(2) Section 1.41-3A also addresses the special rule in section 221(d)(2) of the Economic Recovery Tax Act of 1981 relating to taxable years overlapping the effective dates of section 41. Section 41 was formerly designated as sections 30 and 44F. Sections 1.41-0 through 1.41-8 and 1.41-0A through 1.41-5A refer to these sections as section 41 for conformity purposes. Whether section 41, former section 30, or former section 44F applies to a particular expenditure depends upon when the expenditure was paid or incurred.

[T.D. 8930, 65 FR 288, Jan. 3, 2001, as amended by T.D. 9401, 73 FR 34187, June 17, 2008]

§ 1.41-2 Qualified research expenses.

(a) *Trade or business requirement—(1) In general.* An in-house research expense of the taxpayer or a contract research expense of the taxpayer is a qualified research expense only if the expense is paid or incurred by the taxpayer in carrying on a trade or business of the taxpayer. The phrase “in carrying on a trade or business” has the same meaning for purposes of section 41(b)(1) as it has for purposes of section 162; thus, expenses paid or incurred in connection with a trade or